

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ROBERT MERRITT,
Plaintiff,

v.

GREGORY POLINSKY, *et al.*,
Defendants.

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CIVIL ACTION NO. 20-CV-0739

ORDER

AND NOW, this 18th day of March, 2020, upon consideration of Plaintiff Robert Merritt's Motion to Proceed *In Forma Pauperis* (ECF No. 6), his Prisoner Trust Fund Account Statement (ECF No. 7), his *pro se* Complaint (ECF No. 1), and his Motions for Appointment of Counsel (ECF Nos. 4 & 8) it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Robert Merritt, #12130, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of Northampton County Jail or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Merritt's inmate account; or (b) the average monthly balance in Merritt's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Merritt's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to

Merritt's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is directed to **SEND** a copy of this Order to the Warden of Northampton County Jail.

4. The Complaint is **DEEMED** filed.

5. The Complaint is **DISMISSED WITHOUT PREJUDICE** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for the reasons stated in the Court's Memorandum.

6. Merritt may file an amended complaint within thirty (30) days of the date of this Order. Any amended complaint must identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint and shall state the basis for Merritt's claims against each defendant. The amended complaint shall be a complete document that does not rely on the initial Complaint or other papers filed in this case to state a claim. When drafting his amended complaint, Merritt should be mindful of the Court's reasons for dismissing the claims in his initial Complaint as explained in the Court's Memorandum. **Merritt shall not reassert any claims that were dismissed with prejudice in Civil Action Number 18-213, nor shall he reassert claims that are not cognizable.** Upon the filing of an amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

7. The Clerk of Court is **DIRECTED** to send Merritt a blank copy of the Court's form complaint for a prisoner filing a civil rights action bearing the above civil action number. Merritt may use this form to file his amended complaint if he chooses to do so.

8. If Merritt fails to file an amended complaint in accordance with this Order, his case may be dismissed without further notice for failure to prosecute.

9. Merritt's Motions for Appointment of Counsel are **DENIED WITHOUT PREJUDICE** at this time.

BY THE COURT:

/s/ Jeffrey L. Schmehl

JEFFREY L. SCHMEHL, J.